THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 2752 of 2003

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Oral order:

The petitioner was appointed as Conductor on daily wage basis in the 2nd respondent-Depot in the year 1997, and his services were regularized on 01.08.1999. On 22.04.2001, while the petitioner was conducting the bus on the route V.V. Rao Pet-Metpally, a check was exercised, and the checking officials, having found certain cash and ticket irregularities, issued charge memo. The petitioner submitted his explanation. Dissatisfied with the explanation, the petitioner was placed under suspension and a charge sheet was issued. The Enquiry Officer, who conducted enquiry into the charges, held the charges proved. Based on the enquiry report, the 2nd respondent, vide proceedings dated 30.08.2001, removed the petitioner from service. The appeal and review petition, filed by the petitioner assailing the order of removal, were rejected. Assailing the order of removal, the petitioner raised an industrial dispute in I.D. No. 47 of 2002 on the file of the Labour Court, Godavarikhani. The Labour Court, by award dated 24.10.2002, confirmed the order of removal and dismissed the I.D. Aggrieved by the said award, the petitioner filed the present writ petition.

The main contention advanced by the learned counsel for the petitioner is that the Enquiry Officer, without providing necessary documents and without giving reasonable opportunity to the petitioner, held the charges leveled against him are proved, and based on the said report, the 2nd respondent-Depot Manager removed the petitioner from service. He submits that the petitioner raised an objection with

regard to validity of the domestic enquiry before the Labour Court, but the Labour Court, without appreciating the same, without giving any reasons, and without applying its mind, simply held that the domestic enquiry is valid, hence, the same is vitiated with material irregularities. He further submits that the Labour Court, without properly appreciating the evidence on record, erred in confirming the order passed by the disciplinary authority, and at any rate, he contended that the punishment of removal from service imposed on the petitioner is disproportionate to the proved charges. He thus prayed that the impugned order be set aside and the writ petition allowed.

On the other hand, the learned Standing Counsel for the respondents-APSRTC reiterating the counter averments contended that the order passed by the disciplinary authority removing the petitioner from service, was confirmed in appeal and review petition, and the award passed by the Labour Court is well reasoned and based on sufficient evidence, and therefore, there are no reasons to interfere with the same.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent-Corporation.

A perusal of the award would disclose that the petitioner raised an objection with regard to validity of the domestic enquiry. Even then, the Labour Court, without appreciating the said objection and without giving any valid reasons, simply held that the domestic enquiry is valid. When the petitioner raised an objection with regard to validity of the domestic enquiry, the Labour Court has to decide the same first after giving reasonable opportunity to the parties. That apart, Ex.M7 application of the petitioner, produced by the management, would reveal that the petitioner made a request seeking six documents. Whether non-issuance of such documents vitiated the enquiry or not is

also a matter to be decided by the Labour Court. In that view of the matter, I deem it appropriate to remand the matter to the Labour Court to decide the validity of the domestic enquiry.

Accordingly, the writ petition is allowed and the impugned award of the Labour Court is set aside. The matter is remanded to the Labour Court with a direction to consider the validity of the domestic enquiry after giving reasonable opportunity to both the parties and pass a reasoned order. No costs.

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N.V. RAMANA, J.

Dated: 31.08.2006
KSR